

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

John D. Lynch, II,

Plaintiff,

vs.

Pathward Bank, N.A.,

Defendant.

Civil Action No. 3:24-cv-3199-CMC

ORDER

This matter is before the court on Plaintiff's Complaint. ECF No. 1. He claims he is unable to withdraw his funds at Defendant Bank he receives from the Social Security Administration via Netspend. Plaintiff filed two motions for hearings. ECF Nos. 7, 8. In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(e), D.S.C., the matter was referred to United States Magistrate Judge Shiva V. Hodges for pre-trial proceedings.

On May 31, 2024, the Magistrate Judge issued a Report and Recommendation ("Report") recommending Plaintiff's Complaint be dismissed for lack of subject matter jurisdiction. ECF No. 11. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and the serious consequences if he failed to do so. Plaintiff filed a letter stating the Social Security Office refused to do more than state they correctly sent the payment to Pathward Bank. ECF No. 14.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made

by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. See 28 U.S.C. § 636(b).

The Report recommends Plaintiff's Complaint be dismissed for lack of subject matter jurisdiction – Plaintiff did not affirmatively plead jurisdiction of the federal court. ECF No. 11 at 4-5. Plaintiff references banking regulations, but does not show he can bring suit under those regulations. Neither did he allege citizenship of either party, and the amount in controversy alleged was \$4584.46. The Report recommends Plaintiff's motions be termed as moot if the court accepts the Magistrate Judge's recommendation of dismissal.

As noted above, Plaintiff filed a letter noting the Social Security Administration stated it correctly initiated payment to Plaintiff's Pathward bank account. ECF No. 14. Plaintiff did not address the jurisdictional issues raised in the Report.

After considering the record, the applicable law, the Report and Recommendation of the Magistrate Judge and Plaintiff's filings, the court agrees with the Report's recommendation the matter should be dismissed for lack of jurisdiction. Plaintiff does not allege facts sufficient to show federal question jurisdiction, diversity of citizenship, or damages of over \$75,000. Accordingly, the court adopts the Report by reference in this Order. This matter is hereby summarily dismissed without prejudice. Defendants' pending motions (ECF Nos. 7, 8) are dismissed as moot.

IT IS SO ORDERED.

s/Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
Senior United States District Judge

Columbia, South Carolina
June 26, 2024